

THE COMPETITIVE SUPER

BY RITA SIMONETTA

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If business competition in Canada were given a mark, it might not even manage a passing grade. In fact, the number of players in the country's varied sectors is decreasing and that means consumers are getting short-changed. Toronto investment bank Crosbie & Co. put a number on it: Canadian mergers and acquisitions hit record levels in 2021 with 3,857 transactions that had a total value of \$359 billion.

The business playing field is not as fair or fierce as some might like to believe. With conglomerates divvying up the market, consumers have less choice while experts disagree on the best way forward.



Food for thought

A visit to a grocery store can actually help bring the issue into focus. The country's grocery sector is ruled by the big three: Loblaw Companies Ltd., Metro Inc. and Empire Company Ltd. These companies also own subsidiaries. Loblaw is the parent company of No Frills, while Sobeys and FreshCo are under the Empire banner.

The Competition Bureau, Canada's competition watchdog, confirmed that grocery prices are spiking at the fastest rate in four decades. Going a step further, it has launched a study into how governments could act to combat grocery price increases by way of greater competition in this industry. The bureau will present its final report in June 2023.

Communication breakdown

The situation is strikingly similar when it comes to telecommunications. According to the Canadian Wireless Telecommunications Association, Rogers is the largest cellphone service provider in the country, followed by Bell and Telus. Much like the grocery chains, these companies own a bevy of sub-brands: Koodo and Public Mobile are Telus offshoots, Bell has Virgin Plus and Lucky, while Fido and Chatr are under the Rogers banner.

This cozy relationship created an uncomfortable result last July when the country seemingly stood still for one day as the nation's cellphones, cable and Internet networks—the majority of which are powered by Rogers—experienced a massive outage.

People gathering at a Starbucks during the Rogers outage to use Bell's wireless service

STARBUCKS COFFEE



Shop (at some stores) 'til you drop

It's hard to forget the sight of shoppers panic-buying during the height of the pandemic. Where did they shop? The big-box stores, which had stock aplenty thanks to the long arm of their supply chains. They also had ample square footage, so owing to the capacity limits at the time, more bodies could safely distance in a big-box store than an independent neighbourhood shop.

When health mandates forced smaller retailers to temporarily close, a giant like Walmart, which carries groceries and is therefore deemed to be providing an essential service, was never forced to shut down.

Worn down by restrictions, closures and resulting debts, the mom-and-pop operations couldn't keep up. Some closed their doors and never reopened.

According to the Canadian Federation of Independent Business, one in six Canadian small business owners considered closing shop permanently in 2021. The year before, 58,000 went out of business.

It's a different story when it comes to chain stores. In 2020, Walmart Canada announced a \$3.5 billion investment over a period of five years. In 2022, there was still a celebratory feeling when Walmart Canada handed its store associates more than \$100 million in total cash bonuses.

WHAT ABOUT THE COMPETITION ACT?

So how did it get to this?

Anti-trust critics point to the Competition Act, which sets out the primary legal principles and rules that make up competition law in Canada. Experts say that the Act, designed in 1986, is outdated and doesn't reflect the challenges of a marketplace that has radically transformed.

While amendments were made in 1999, 2009 and in 2022, laws affecting mergers were unaffected and there's still no comprehensive strategy to

deal with the digital economy or its titans, such as Google and Meta.

One of the act's most controversial features is the "efficiency defence," which pertains to merger laws. If the efficiencies (cost-savings) of a proposed merger outweigh (captures what can be quantified) and offset the anticompetitive effects, the merger is allowed even if it's been found to be anti-competitive by the Competition Tribunal.

"If you look at who loses and who

wins it often tracks with who has the most economic power," says Jennifer Quaid, associate professor and vice-dean, research, at University of Ottawa's Faculty of Law. "Those who benefit tend to be those who are already well-off or in a position to protect their interests."

Edge agrees, adding, "The problem with the competition law is it only takes into account something that can be quantified. It has to come to grips with the public interest."



How did we get here?

Marc Edge, retired university professor in media and communication, points to the Postmedia takeover of Sun Media in 2014 as a defining moment in the history of competition in Canadian business, at least in the media sector.

Not only did journalists lose their jobs as part of the takeover, he says, but Canadians lost out as well. "We need to take into account the public interest in having a diversity of voices."

For Keldon Bester, a fellow at the Centre for International Governance Innovation, the Bell acquisition of Manitoba Telecom Service in 2016-2017 was particularly troubling.

"It was a real head-scratcher because we already knew back then that our wireless services are some of the most expensive in the world."

Currently, all eyes are on Rogers' bid to take over Shaw Communications, one of Western Canada's largest telecom providers. The Competition Bureau is currently seeking to block the merger, arguing it would lead to higher prices and less choice.

The impact of consolidation

“The consequences of consolidation are very direct and visceral,” says Bester. “The results are higher prices, and a lack of choices, which can really wear down on people.”

“The larger companies can charge higher prices because consumers don’t have as many options,” explains Karim Bardeesy, executive director of Toronto Metropolitan University’s Leadership Lab. “And consolidated industries are less responsive to consumer feedback.”

Also impacted are start-ups, once the bastion of innovation and creativity, says Taylor Matchett, senior research analyst at the Canadian Federation of Independent Business.

“Right now, start-ups and small businesses don’t find the environment very appealing,” she says, highlighting the necessity for better protection of up-and-comers.



Taking it into account

As consolidation grows, CPAs say their expertise is increasingly being tailored to meet the needs of small-business clients.

“I think a lot of small businesses realized they probably didn’t know their numbers as well as they thought they did, especially after the pandemic,” notes Shalini Dharna Kibsey of Dharna CPA in Mississauga, Ontario. “Some were just doing the bare minimum of filing taxes. Then they told me, ‘I really need to understand the numbers—not just the business side but the personal as well.’”

Sanjay Chadha, partner of SAV Associates in Toronto, notes that without the cash flow of large corporations, smaller businesses have a tougher time adapting to change.

“It’s also hard for them to prepare a year ahead. They will cut costs in the moment to survive, without really thinking about the long term.”



Next steps

Who’s responsible for creating a more robust marketplace?

That was answered, in part, after Matthew Boswell, the Competition Bureau’s Commissioner of Competition, called on the government to review the Competition Act: “We need to have a debate in Canada about what our competition law should look like in the 21st century.”

That’s a positive first step, say experts, who also suggest further improvements.

“I think the competition bureau will get more teeth to deal with anti-competitive issues,” says Bardeesy, noting that at the moment, the bureau has limited authority.

In the meantime, the 2022 Budget indicated that the government is taking steps in addressing the role and functions of the Competition Act and its enforcement protocol. The goal is to ensure that the law addresses anti-competition concerns to inform future legislation.

THE SPECTRE OF CORPORATE LEVIATHANS

A study of the numbers of the “free market” gives a sobering look at its true nature

BY AHSAN MOGHUL

Many Canadians have felt the pinch of rising inflation; everything from groceries, gas, and real estate have increased at an alarming rate. While there is no single culprit behind price hikes and rising inflation, the global financial crisis of 2008 and corporate profiteering under COVID-19 has reasonably caused many of us to re-evaluate the state of our economy. Innovation, free enterprise and competition are held up as cherished values that are in many cases not

reality. Several industries in Canada and the U.S. are increasingly under the control of the corporate monopolies or oligopolies that have stifled innovation, curtailed competition and fostered an economic environment where shareholders are placed ahead of the needs of citizens.

In Canada we have numerous examples of monopolistic and oligopolistic hegemony in many of our industries. TD, RBC, BNS, BMO, and CIBC control 90 per cent of the banking industry; Rogers, Bell, and Telus account for 88.7 per cent of the telecommunications market; Air Canada and WestJet command over 85 per cent of the airline industry; AB InBev and Coors control 63 per cent of the beer market; and Sobeys, Loblaws, Metro, Costco,

and Walmart command over 60 per cent of the grocery market. Much of our consumer market is nothing but the social theatre of choice, with a myriad of stores and products under the portfolio of many of these large corporations.

After the New Deal in 1933, the U.S. government committed to the task of shrinking monopolies. The state’s perception of monopolies was as a threat to democracy itself, since a company with a monopoly has the ability to influence government and policy that may serve shareholders rather than citizens. Over time, neoliberal economists during the Reagan years eschewed the idea of citizenship within antitrust policy, preferring to limit the discussion to merely “consumer

welfare.” As long as consumer prices remained stable, they were able to do as they pleased.

These policy shifts laid the groundwork for the rise of Big Tech. Both Canada and the United States have been woefully inept in curbing the power of Facebook, Amazon, Apple, Netflix and Google (FAANG). At present Google accounts for 90 per cent of global internet searches, Facebook and Google receive over 95 per cent of ad spending; 95 per cent of adults under 30 are on Facebook or Instagram; and Amazon accounts for over 50 per cent of all U.S. e-commerce sales.

Many of these companies have been able to flout taxation, labour laws and competition legislation, dominating markets by way of

predatory prices and mergers. This can even be seen in accounting firms, with Bill Michael, the former chair of KPMG, describing the Big Four (KPMG, Deloitte, EY, and PwC) as an “undeniable oligopoly” and headed toward reform. It’s a difficult take to argue against as the Big Four hold the lion’s share of FTSE audits, accounting for all but 11 of the FTSE’s 350 constituents.

The solution has been echoed throughout the decades: a revamp of competition laws. But if politicians are hesitant to push and companies are unwilling to budge, reform may just be a pipe dream. ♦

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